

## **Journey, Hurdle and Challenges before the Panchayati Raj Institutions in J&K**

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### **Abstract**

The term Panchayati raj in India signifies the system of rural local self-government. It has been established in all the states of India by the Acts of the state legislatures to build democracy at the grassroots level. It is entrusted with rural development. It was constitutionalised through the 73<sup>rd</sup> constitutional Amendment Act of 1992. Panchayati raj institutions provide opportunities to the local people to participate in the political and development process at grassroots level. But still Panchayati raj institutions are not working properly particularly in J&K state of India. The present paper studies the journey and hindrances of Panchayati raj institutions in J&K and emphasises the effect of militancy in the working of panchayats in J&K state.

**Keywords:** Panchayat, decentralization, panch, sarpanch, election, militancy

### **Introduction**

Self governing rural local bodies or democratic decentralization can lead to more flexible, innovative and creative administrative set up. Decentralization helps to identify the needs and preferences of people through their direct participation in plan formulation and implementation. It empowers weaker sections and overcomes the domination of the elite to certain extent. Local governance existed in India from centuries and were called as "little republics". The creation of institution of Panchayati Raj was a landmark in the Indian history and for democracy to percolate deep down to the grassroots level. It has largely been seen as a mechanism through which Panchayati Raj institutions have come into being to give power to the powerless, vote to the vote less by bringing the hitherto neglected section of the society into the arena of political, social and administrative development to achieve inclusive growth. The ultimate objective is to build society in such a way where every village could manage its own affair and become self sustainable.

Currently, the Panchayati Raj system exists in all the states except Nagaland, Meghalaya and Mizoram and all Union Territories except Delhi. In J&K state the roots of Panchayati Raj System were planted by Maharaja Hari Singh in 1935. More recently in 1989 J&K Panchayat Act came into existence three years before the 73<sup>rd</sup> Amendment of the Constitution. The panchayat rules were framed in 1996. The state has passed through a situation of turmoil during past 12 years and this has affected the progress of panchayats as well. The 73<sup>rd</sup> amendment lays down principles for devolution through Panchayati Raj Institution, the state has the prerogative to include or exclude provisions of this amendment as per its needs. J&K Panchayati Raj Act, 1989 provides for a three tier system for governance at the grassroots level- Halqa Panchayat, Block Development Council, and District Planning and Development board. Though in reality only the district planning and development body and the halqa panchayats have been constituted. The Block development council have not been formed in J&K.

### **Panchayati Raj Institutions in J&K- An analysis:**

#### **Historical Backdrop**

Decentralization ensures grassroots level people's participation in decision making process. In India, Panchayati Raj system is identified as the prime instrument of decentralization through which democracy becomes truly representative and responsive. The word "panchayat" literally means of five wise and respected elders chosen and accepted by the local community.

Panchayati Raj in Jammu and Kashmir, were introduced by Maharaja Hari Singh In 1935 in a modest way by promulgation of the Jammu and Kashmir Village Panchayat Raj. In 1936 a separate department Panchayati and Rural Development was created to administer the 1935 Regulation. By an amendment in 1941, the list of functions of the 1935 Regulation were widened by an Act of 1951, the Panchayati Raj Institutions (PRI) was adopted to be re-established. The Jammu and Kashmir Government thereafter enacted the Village Panchayati Act in 1958 replacing the 1951 Act and in April 1988 and passed in March 1989, then force Jammu and Kashmir Panchayati Raj Act came into existence. For the first time an Act was named a "Panchayati Raj Act" rather than a "Village Panchayat Regulation Act". The former implies the promotion of Panchayati Raj in the State (at village, block and district levels) whereas the latter was confined to panchayats at the village level alone. This is certainly a very positive development. The preamble of the 1989 Act states: "Whereas it is expedient to promote and develop Panchayati Raj in the State as an instrument of vigorous local self government to secure effective participation of the people in the decision making process and for over-seeing implementation of development programmes". This Act provides for a 3 tier PRI system which is called Halqa Panchayat, Block Development

Council and District Planning and Development Board for the village, block and district level respectively. Each Halqa Panchayat comprises of 7 to 11 Panches and a Sarpanch. The Sarpanch and Panches would be elected directly by the people. A naib Sarpanch is nominated by all the panches of a halqa panchayat. Naib sarpanch performs the same duties as those of sarpanch in the event of sarpanch not being in a position to fulfill his/her duties. Village level worker will be the secretary of the halqa Panchayat.

### **Re-emergence of PRI's and Militancy Hindrance**

In 1989, a violent insurgency engulfed the Kashmir valley. The whole Valley was on boil, chaos and disorder prevalent in the whole state that would continue through the 1990s. In the midst of this cycle of violence and competing nationalisms, all types of elections in Jammu and Kashmir have predictably been mired in controversy. The All Parties Hurriyat Conference (APHC), a significant group in the valley, has repeatedly articulated that elections (regardless of whether they are free and fair) have no meaning until the 'final settlement' of the 'Kashmir dispute' has been worked out. Despite inhospitable security environment and desperate attempts from many to thwart the attempts of the Government to hold Panchayat elections, the State Government succeeded in conducting Panchayat elections during the first quarter of 2001 after a very long gap of 22 years. The 2001 elections were held in a situation when the armed militancy was still a reality in Jammu and Kashmir. In the face of the call for boycott issued by the militants, many Constituencies were declared vacant as no contestant came forward to fill in the nomination papers. There were districts like Badgam, where the actual polling did not take place. Invariably in every district of Kashmir, the number of candidates per district was less than the total number of constituencies. Therefore, a large number of constituencies were left vacant. As many as 63 percent of the total panch constituencies in Srinagar district and 60 percent in Baramula district were declared vacant. Militancy had not only affected the panchayat elections in Kashmir, but also in Jammu region. In the militancy affected districts of Doda, Poonch and Rajouri, the electoral process was intervened by violence and disruption of the polls by the militants.

### **Revival of PRI's in 2011**

Yet, surprisingly, the panchayat elections in 2011 were quite different. Everyone was taken aback as the panchayat elections in J&K did not evoke any untoward happening in 2011 as was seen in previous election. The halqa panchayat elections were conducted under the Jammu and Kashmir Panchayati Raj Act of 1989. The 73rd Amendment Act of the Indian constitution is not applicable to Jammu and Kashmir unless it is specifically adopted by the state assembly. The Jammu and Kashmir Panchayati Raj Act of 1989 was amended in 2004 to provide for reservations of seats for scheduled castes, scheduled tribes and women, and the 2011 amendments brought it in line with those parts of the 73rd Amendment that relate to the establishment of a state election commission. What was significant about the 2011 Panchayat elections in Kashmir was the overall enthusiasm of the people. Rather the elections were perceived as an opportunity to return to the normal life in villages by allowing duly elected representatives of their choice. Around 80% voter turnout was recorded. The young people were especially quite involved in the electoral process with many of them joining the election fray as the candidates for Panch and Sarpanch constituencies. Even armed militant groups were less vociferous in issuing threats than was the case when panchayat elections were attempted in Jammu and Kashmir in 2001. The halqa panchayat elections of 2011 were significant in many respects. The elections were held in all constituencies of the state with full enthusiasm. The elections were clearly seen as a step towards mainstreaming human potential at the grassroots in matters of development through self-governance. The elections were conducted without intimidation by militants or security forces. There were no serious pre-election threats, even from existing militants. Voters ignored the boycott call given by Hurriyat hardliner Syed Ali Shah Geelani. Devolution of functions and activities of 14 line departments to halqa panchayats was notified in a state government order (No. 1126-GAD dated 22-09-2011).

But the situation changed again militants killed many panchs and sarpanchs of the valley and created fear among them. After the killings of sarpanchs in different districts of state they decided to resign. They want to get rid of this situation. Atleast 161 village heads including 49 sarpanchs, 111 panches and one deputy sarpanch of south Kashmir declared their resignation through public address system in their respective areas. About 50 panches and sarpanchs resigned from North Kashmir. They argued that we want to live in peace. We contested elections to serve people but government disappointed us and use us as pawns. They demanded protection of their lives from government but all in ruin.



To sum up we may say that panchayati raj institutions in J&K are not working to that extent as is expected. Militancy and other factors affect the working of panchayati raj institutions completely. There felt the need of restructuring the system and in this matter civil society can play a crucial role in capacity buildings of PRI's synergy of State Govt., Local Self Govt., and civil society need to be harnessed.

### **Challenges to Panchayati Raj in Jammu & Kashmir**

#### **Lack of awareness**

Lack of awareness in implementing the system, the bureaucratic delays, political interference, economic reasons and social pressures has made the Panchayati Raj dysfunctional. If the J&K Panchayati Raj Act (which is considered to be weaker than what is in operation in other states of India) is implemented in letter and spirit such high handedness of Sarpanches or Panches won't work.

#### **Participation**

People's participation is essential for the overall development of rural masses. Participation is chiefly concerned with increasing the role of citizens in choosing their local leaders and in telling these leaders what to do- in other words, providing inputs into local governance. This implies the inputs given by authority and includes people's participation. Participation of all is necessary, whether directly or indirectly (through representatives), to make the system more accountable and transparent.. The success of the panchayats in Kashmir has intrinsic merit and long-term ramifications for our unity. J&K's panchayati raj system has strong bridge value, being the only issue of substance that links the state's three regions — Jammu, Kashmir and Ladakh — otherwise divided by language, religion, topography, food, dress and politics.

#### **Accountability**

Accountability is crucial caveat for development programmes. It can be defined as an explanation of one's action or responsibility. All elected members should be accountable to the people. In other words, there should be a mechanism by which these representatives can be removed and or penalized in case they fail to perform. They should not the government machinery to acquire special favours or benefits.

#### **Transparency**

Transparency is essential for good governance. More transparency in local governance should mean less scope for corruption. Information about decisions and actions taken by various authorities concerned should be made public. The right to information is essential for people to judge whether their representatives have done justice to the work assigned to them. This information has to be complete and unbiased.

#### **Conclusion**

Decision making processes in panchayats need to be better defined, to diminish the possibility of elite capture, proxy participation and single point decision. Panchayati Raj Institution are working almost in every state of India. The concept of governance in the context of Jammu & Kashmir needs to be elaborated and detailed. Long spells of Governor's rule, suspension of municipalities and other local bodies and non-existence of panchayats have had a bearing on the governance of the state. As a result, even during normal times, the governance in the state was marked by arbitrariness and lack of systems and precedents. Killing of sarpanchs by the militants created more threat among the panchs and sarpanchs of the valley. Two-third of the state had been severely hit by militants due to which the outreach of government officials also got affected. To sum up we can say that Panchayati raj institutions are existed in J&K state but are not functioning to that extent as is expected. There is need to revive and activate the panchayats and revitalise the administration at grassroots level. To overcome these problems, it becomes imperative to take a few measures that will prove beneficial in the long run. Educated

youths of J&K should tackle the situation bravely and should work for the development of their area.

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